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10/537,532	06/03/2005	A Christian Tahan	GQUANTA-101	4780
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Robert K Tendler 65 Atlantic Avenue Boston, MA 02110			PALABRICA, RICARDO J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,532	Applicant(s) TAHAN, A CHRISTIAN
	Examiner Rick Palabrida	Art Unit 3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 August 2007.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3,4,11 and 13-16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3,4,11 and 13-16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/95/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's 8/20/07 RCE submission, which traversed the rejection of claims in the 9/8/06 Office action of the previous examiner, has been entered.

Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Specification

2. The specification is objected to under 35 U.S.C. 112, first paragraph, as failing to provide an adequate written description and as failing to adequately teach how to make and/or use the invention, i.e., failing to provide an enabling disclosure.

MPEP 2164.01(a) identifies factors to be considered when determining whether there is insufficient evidence to support a determination that a disclosure satisfies the enablement requirement. These factors include, the nature of the invention, the level of predictability in the art, the amount of direction provided by the inventor, the existence of working examples, and the quantity of experimentation needed to make or use the invention based on the content of the disclosure.

MPEP 2164.07(B) places on the examiner the initial burden of challenging an asserted utility. Once the examiner has provided evidence showing that one of ordinary skill in the art would reasonably doubt the asserted utility, the burden shift to the applicant to provide rebuttal evidence.

The specification contains references/discussion on the generation of energy from the decay of protons under the influence of an electromagnetic field. As set forth more fully below, the disclosure does not contain reputable evidence that is sufficient to support any allegation or claims that the invention generates energy or claims of energy generation are valid and reproducible, nor that the invention, as disclosed, is capable of operating as indicated and capable of providing the intended output.

The specification is replete with factual statements but applicant provides no evidence in support thereof. As such these statements appear to be no more than applicant's unsupported opinions.

The nature of the invention rests upon some basic concepts including the following:

- Proton decay (proton transformation to a neutron that is accompanied by a positron and electron neutrino, page 8, lines 9+ of the specification) can be induced by a magnetic field of low frequency (claims 1, 3, 13).
- Above proton decay leads to three types of energy release, i.e., fusion, gravity wave, and particle-antiparticle annihilation (page 3, lines 12+ of the specification).
- At room temperature application of 2Hz radio waves to protons in a magnetic field can make proton decay to take place not in 10^{35} years but in less than 360 seconds (page 2, line 5+ of the specification).
- Gravity waves (i.e., gravitons) and anti-gravity waves have been observed (page 8, lines 9+ and page 15, lines 12+ of the specification), along with positron and anti-proton annihilation (page 22, lines 18+ of the specification).
- A gravity wave having much as 1.11×10^4 GeV energy is produced from proton decay (paragraph bridging pages 3 and 4 of the specification).

Applicant's, "Explanation of Phenomenon", allegedly to provide a basis for the concept of his invention provides no evidence of record to indicate that applicant's "explanation" is nothing more than an unfounded conjecture because it is neither based on rigorous mathematical proof nor credible evidence. Additionally, the "explanation" directly contradicts accepted science (e.g., applicant has suggested that bodies with larger mass fall to Earth more quickly than bodies with smaller mass – see, e.g., paragraph bridging pages 31 and 32 of the specification).

The decay of a proton as described by the applicant is essentially its fission into its constituent parts. The mass of an atom having multiple nucleons is less than the sum

of the masses of the individual nucleons. The energy associated with this "missing mass" is the binding energy. Positive energy from an external source is required to disassemble an atom into its nuclear constituents. However, binding energy does not increase uniformly with atomic number (See Kniep, p. 28-31). These facts are logically and experimentally inseparable from the existence of the fission process. That is, some of the fragments resulting from the fission of a heavy nucleus (mass number > ~60) may be more tightly bound than the parent nucleus, resulting in a release of energy, but the fission fragments of a light nucleus (mass number < ~60, including the proton) will be less stable and less tightly bound than the parent nucleus, and therefore there will not be a net energy release after a fission reaction. In other words, the proton as a body of mass will not fission into a neutron, positron, neutrino and excess energy because the neutron is actually heavier than the proton itself. The decay scheme advanced by the applicant actually only occurs inside nuclei when the binding energy of the mother nucleus is lower than that of the daughter nucleus (e.g., $^{11}\text{Na} \rightarrow ^{10}\text{Ne} + \text{e}^+ + \bar{\nu}\text{e}$).

The decay of a free proton has only been theorized, but the most likely mode is $\text{p} \rightarrow \pi^0 + \text{e}^+$ (see Proton by R. Nave), wherein the pion (π^0) would instantaneously decays into gamma radiation. Note that gravitons are conspicuously absent. In contrast, the decay of a free neutron (such as the one that would be created according to applicant's theory) is known to occur spontaneously on the order of minutes, and the only possible decay products including a proton, an electron and an antineutrino. Note that gluons are conspicuously absent.

Based on the above, there is neither an adequate description nor enabling

disclosure as to how and in what manner either a magnetic field or extremely low frequency electromagnetic waves (extremely low frequency indicating extremely low energy content) can impart enough energy to the proton to spontaneously produce the additional mass needed to create a neutron from a proton.

Also, there is neither an adequate description nor enabling disclosure as to how and in what manner a gravity wave created from the decay of a proton can have an energy of 1.11×10^4 GeV (see page 4, lines 1+ of the specification), when the rest mass of a proton is only 938.27 MeV!

Further, all materials are exposed in the Earth's magnetic field (if no special, complex shielding is used) and low frequency (0.1-10 Hz) variation of magnetic field is created by moving of ferromagnetic objects that are made of steel. Now, assuming for the sake of argument that indeed magnetic field can induce proton decay, as claimed by the applicant. Since detectors of fast neutrons and positrons with high sensitivities currently exist, a large numbers of these particles would have been observed and reported, but such is not the case. Thus, applicant's concept is not supported by actual observations.

As to the alleged decay of taking place in less than 360 seconds and not in 10^{35} years, applicant states:

"As to the gravity wave with spin-2, creation of gravity was observed with the FIG. 8 Pasteur pipette, which held water drops in-line with the Hz wire (antenna) in the Pyrex tube. With the 2 Hz signal on, due to the gravity wave imparting energy the drops fell 1-3 mm being attracted to Earth. This movement occurred approximately on average every 360 seconds, corresponding to the decay of protons. To ensure encounter with a wave with spin-2, multiple drops were created and marked in position on the pipette." See page 50, 2nd paragraph.

There is neither an adequate description nor enabling disclosure as to how and in what manner such decay time was measured and confirmed. Note that this decay time was only inferred and not positively determined by the applicant. Thus, applicant has not positively ruled out that his inference is due to misinterpretation or even inadvertent misrepresentation of experimental data. There is no indication of the possible errors and sources of errors including systematic errors, cumulative errors, instrument errors, etc. Such is necessary in determining the applicant's conclusion or interpretation of the experimental results that he attributes to proton decay time.

Even in cases where a parameter for a process/concept is determined directly from an actual experiment (which is not the case for applicant), there will be errors introduced due to systematic or cumulative errors, as well as instrument errors, since all instruments have some error in their measurements. The magnitude of the error is dependent, for example, on the type and quality of the instrument. Clearly, if the results fall within the limits of experimental error, the results have no probative value.

In the instant case, applicant has neither identified all of the various errors (instrument errors, errors in assumptions/approximations, etc.) nor has applicant shown that his conclusion fall outside the error limits. These issues go to the heart of the question whether the invention, as claimed by the applicant, actually works. If applicant's results and conclusions are based on misinterpretation of the data or errors in the experiment, then the concept is not valid and therefore the claimed invention lacks enablement.

Reproducibility of results is clearly a critical feature in determining if a disclosure adequately teaches the artisan how to make and use an invention for its disclosed purpose. Applicant has not presented objective evidence that the alleged results (i.e., of generating energy) are real and not due to experimental errors, instrumentation errors, misinterpretation of results, etc.

Clearly, when an artisan or experimenter is relying on the experimental results of a particular experiment(s) to establish certain facts, it is incumbent upon the experimenter to show that the alleged experimental results are valid and not just the result of experimental errors (and that the alleged experimental results are valid and not just the results of experimental errors (and that the alleged experimental results do not fall within the limits of experimental errors).

Note further that applicant's inference of the proton decay time of 360 seconds is based on production of gravity waves resulting from said proton decay. However, note the above discussion on the absence of gravity waves from proton decay.

It is well established that where the utility of the claimed invention is based upon allegations that border on the incredible or allegations that would not be readily accepted by a substantial portion of the scientific community, the applicant must submit sufficient substantiating evidence of operability. Note *In re Houghton*, 167 USPQ 687 (CCPA 1970); *In re Ferens*, 163 USPQ 609, *Puharich v. Brenner*, 162 USPQ 136 (CA DC 1969); *In re Pottier*, 153 USPQ 407 (CCPA 1967); *In re Ruskin*, 148 USPQ 221

(CCPA1966); *In re Citron*, 139 USPQ 516 (CCPA 1963); and *In re Novak*, 134 USPQ 335 (CCPA1962).

Applicant's concept of shortening the proton decay time is similar to the concept proposed by Reiss (Physical Review C, Vol. 27, No. 3, March 1983), to accelerate nuclear beta decay by application of electromagnetic fields. Similar to applicant, Reiss' concept is considered as being contrary to commonly accepted in the scientific community, that the half-life decay of radioisotopes cannot be influenced or accelerated. Akhmedov (JETP Lett., Vol. 39, No. 6, 25 March 1984) and Becker et al. (Phys. Rev. C, Vol. 29, No. 3, March 1984) each show that one cannot enhance nuclear decay.

Accordingly, the applicant's apparent concept or theory of accelerating proton decay is thus clearly contrary to the presently accepted theory and without reputable evidence to the contrary, the presently accepted theory must be presumed correct and the applicant's theory which appears contrary thereto, is presumed to be incorrect, and the disclosure of the applicant's invention is hence insufficient and non-enabling. claims.

It is thus considered that the examiner (for the reasons set forth above) has set forth a reasonable and sufficient basis for challenging the adequacy of the disclosure. The statute requires the applicant itself to inform, not to direct others to find out for themselves; *In re Gardner et al.*, 166 U.S.P.Q. 138, *In re Scarborough*, 182 U.S.P.Q. 298. Note that the disclosure must enable a person skilled in the art to practice the invention without having to design structure not shown to be readily available in the art; *In re Hirsch*, 131 U.S.P.Q. 198.

Prior art of similar apparatus does not purport energy generation

The conditions for proton decay induced by magnetic field with low frequency variation disclosed by applicant is very similar to condition for registration of nuclear magnetic resonance that Bloch discovered in 1946 and used now for many applications (Bloch et al. "The Nuclear Induction Experiment", Phys. Review, 70 (7,8), 474-485, 1946). They disclose placing different materials comprising nuclei and protons, in a magnetic field and subjected to low frequency of 0-60 Hz (including 0.5, 2, 3 Hz and 0.5 Hz harmonics) waves by electromagnetic Helmholtz coil (i.e., antenna) (Bloch et al., Fig. 1 and page 475, col. 1, lines 12+, and Fig. 3, p. 478, col. 2, lines 32+).

During 60 years after nuclear magnetic resonance discovery by Bloch almost all existing materials from Earth and from space (including a sulfuric acid H_2SO_4 and different nuclear wastes) were investigated in nuclear magnetic resonance apparatus in condition of different temperatures, including room temperature.

As to claims 1, 3, 4, 11, and 13-16, and as indicated in section 7 below, Bloch et al. describes an apparatus that can be exercised to be identical to the same process which is recited in said applicant's claims. Bloch et al., however, does not specifically disclose that (as presently claimed) energy is produced or room temperature fusion is formed in their method of operation. Assuming for the sake of argument that Bloch et al.'s system is not capable of producing (as presently claimed) said energy and/or nuclear fusion, applicant's claims are incomplete in failing to recite the additional structure and/or method steps (not found in Bloch et al.) that are actually necessary to produce the indicated results (as recited in applicant's claims).

Simply stating that the concepts the applicant espouses are correct is not sufficient substantiating evidence. Sufficient substantiating evidence may be based on widely accepted scientific concepts (e.g., quantum mechanics), a working model, or a supporting opinion in a widely respected and peer-reviewed publication.

Undue experimentation under MPEP 2164.01(a)

Given the state of the art as discussed herein, it is unreasonable to expect one skilled in the art to be able to make and use the claimed invention without undue experimentation, based on the factors recited in MPEP 2164.01(a). For example,

(A) The breadth of the claims is doubtful -the invention alleges to produce energy “proton decay.” (Proton decay is a proton transformation to a neutron accompanied by a positron and electron neutrino). This process violates an energy conservation law (see Knief pp. 28.31);

B) The nature of the invention- there is an apparatus and method for energy production through “proton decay”~ the nature of the invention as disclosed involves very drastic departure from hypotheses in the nuclear physics;

(C) The state of the prior art- effects claimed by applicant's were not observed in many experiments with much higher sensitivity (see Undagoitia et al, “Proton decay in the large liquid scintillator detector LENA: study of the background”, TA UP2005, Journal of Physics: Conference series 39 (2006) 269-271);

(D) The level of one of ordinary skill- there is no technological data/experience on generation of energy through proton decay;

(E) The level of predictability in the art - possibility of energy production through proton decay, as claimed, is unlikely (see Undagoitia et al., "Proton decay in the large liquid scintillator detector LENA: study of the background", TAUP2005, Journal of Physics: Conference series 39 (2006) 269-271);

(F) The amount of direction provided by the inventor- is insufficient because applicant has not provided independent confirmation of his assumptions, approximations, simplifications related to his concept of energy production through proton decay.

(G) The quantity of experimentation needed to make or use the invention based on the content of the disclosure- undue experimentation required but will likely produce negative results based on relevant prior art.

In summary, applicant has merely presented a "concept" with no actual details as to how and in what manner an operative embodiment thereof could actually be made.

Clearly then, it is incumbent on an applicant in this field to present sufficient information and detail so as to enable an artisan to make an operative embodiment thereof without undue experimentation. For something completely new (e.g., as in applicant's case), much more detail must be given because it would place an undue burden to an artisan to attempt to determine such matters.

Claim Rejections - 35 USC § 112

3. Claims 1, 3, 4, 11, and 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject

matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The reasons are the same as those stated in section 2 above as to why the specification is non-enabling, which reasons are herein incorporated.

4. Claims 1, 3, 4, 11, and 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements/steps, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: elements/steps required to generate energy. See section 2 above.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 3, 4, 11, and 13-16 are rejected under 35 U.S.C. 101 because the claimed invention as disclosed is inoperative and therefore lacks utility.

The reasons the invention as disclosed is inoperative are the same as the reasons set forth in section 2 above as to why the disclosure is objected to, and said reasons are incorporated herein. There is no factual evidence to show that the invention is operative.

. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bloch et al., "The Nuclear Induction Experiment", Phys. Review, 70 (7,8), pp. 474-485, 1946.

Bloch et al. disclose placing different materials comprising nuclei and protons, in a magnetic field (see Fig. 1, Fig. 4). The objects are subjected to low frequency ~0-60 Hz waves (including 0.5, 2, 3 Hz and 0.5 Hz harmonics) from electromagnetic Helmholtz coil (antenna), used for magnetic field modulation during nuclear magnetic resonance registration (see Fig. 3, p. 478, column 2, lines 32-41).

The claims are replete with statements that are either essentially method limitations or statements of intended or desired use. For example, "for generating energy," "wherein the magnitude of said 1-3 Hz signal is between 12 and 12.5 volts," etc. These clauses, as well as other statements of intended use do not serve to patently distinguish the claimed structure over that of the reference, as long as the structure of the cited references is capable of performing the intended use. See MPEP 2111-2115.

See also MPEP 2114 that states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647.

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531.

[A]pparatus claims cover what a device is, not what a device does." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525,1528.

As set forth in MPEP 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

The system in the cited reference is capable of being used in the same manner and for the intended or desired use as the claimed invention. Note that it is sufficient to show that said capability exists, which is the case for the cited reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 4, 11, and 13-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Bloch et al.

During the 60 years following nuclear magnetic resonance discovery by Bloch in 1946 almost all existing materials (including a sulfuric acid (H_2SO_4) and different nuclear wastes) were investigated in nuclear magnetic resonance apparatus in condition of different temperatures, including room temperature. If the proton decay process works as argued by the inventor, then the device disclosed by Bloch inherently functions in the

same way as the present invention, and cannot be prevented from causing the production of the same effects: energy generation, the room temperature decay of a proton, the production of a gravity wave, and the production of room temperature fusion.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus, as disclosed by Bloch et al. , to include the claimed elements of at least 2000 Gauss and 12-12.5 volts signal, to gain the advantages thereof (i.e., to optimize the system parameters to the specific NMR application), because such modification is no more than the use of conventional designs/techniques within the nuclear art.

As to matters of optimization within prior art conditions or through routine experimentation (see MPEP 2144.05 II.A).

If applicant has a different opinion, the claims are still unpatentable over Bloch et al. in view of Harlan, "Applications of Nuclear Magnetic Resonance Spectroscopy in the Fat and Oil Industry," (J. Am. Oil Chemist's Soc., Sept. 1964), who teaches a field strength of 5-25 Kilogauss and either one of Ackerman et al. (U.S. 6,185,444) or Lohrmann et al. (U.S. 5,660,815) who teach the use of sulfuric acid for NMR imaging.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrida whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 21, 2008

/Rick Palabrica/
Primary Examiner, Art Unit 3663

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